
A BILL FOR AN ACT

RELATING TO PETROLEUM MARKET COMPETITION, PRICING, AND
OVERSIGHT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. In Act 77, Session Laws of Hawaii 2002, the
2 legislature found that there was a need to ensure lower gasoline
3 prices for Hawaii's consumers because Hawaii consumers were
4 paying a large premium at the gasoline pump. One way the
5 legislature addressed this problem was the imposition of
6 gasoline price caps, which are to become effective on July 1,
7 2004.

8 During the interim preceding the imposition of the gasoline
9 price caps, the department of business, economic development,
10 and tourism was directed to: conduct an expert comprehensive,
11 empirical examination of Hawaii's petroleum market; review
12 options available to the legislature; and make findings and
13 recommendations concerning appropriate remedies and solutions
14 available to reduce wholesale and retail gasoline prices in
15 Hawaii, including the provisions in Act 77 imposing maximum
16 prices on wholesale and retail gasoline and the potential
17 effects of imposing such price caps. The department of

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1 business, economic development, and tourism was to submit its
2 findings and recommendations, including proposed legislation, to
3 the legislature twenty days prior to the convening of the
4 regular session of 2003.

5 The department of business, economic development, and
6 tourism conducted its comprehensive study as directed by Act 77
7 and compiled its findings and policy options, which resulted
8 with the following recommendations:

- 9 (1) Repeal the gasoline price caps;
- 10 (2) Eliminate the state petroleum commissioner's role by
11 reassigning those duties to the director of business,
12 economic development, and tourism;
- 13 (3) Repeal the restriction on manufacturers or jobbers in
14 operating service stations;
- 15 (4) Repeal the lease rent caps on lessee operated gasoline
16 dealers;
- 17 (5) Repeal the petroleum commissioner's statutory
18 requirement to conduct random and periodic audits and
19 inspections of the petroleum industry; and
- 20 (6) Revise existing petroleum industry data reporting
21 requirements to provide market transparency, and
22 provide adequate implementation funding.

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1 The purpose of this Act is to implement those
2 recommendations contained in the study by the department of
3 business, economic development, and tourism that require action
4 by the legislature.

5 SECTION 2. Act 77, Session Laws of Hawaii 2002, is amended
6 by repealing section 2.

7 ["~~SECTION 2. Chapter 486H, Hawaii Revised Statutes, is~~
8 ~~amended as follows:~~

9 1. ~~By adding three⁺ new sections to be appropriately~~
10 ~~designated and to read as follows:~~

11 ~~"§486H-A Maximum pre-tax wholesale price for the sale of~~
12 ~~gasoline; civil actions. (a) Notwithstanding any law to the~~
13 ~~contrary, no manufacturer, wholesaler, or jobber may sell~~
14 ~~regular unleaded gasoline to a dealer retail station, an~~
15 ~~independent retail station, or to another jobber or wholesaler~~
16 ~~at a price above the maximum pre-tax wholesale prices~~
17 ~~established pursuant to subsection (b). The commission shall~~
18 ~~publish the maximum pre-tax wholesale prices by means that shall~~
19 ~~include the internet website for the State of Hawaii.~~

20 ~~(b) On a weekly basis, the commission shall determine the~~
21 ~~maximum pre-tax wholesale price of regular unleaded gasoline for~~
22 ~~each island as follows:~~

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~~(1) For the island of Oahu, the maximum pre-tax wholesale price of regular unleaded gasoline shall consist of the baseline price for regular unleaded gasoline, plus the location adjustment factor, and the marketing margin factor; and~~

~~(2) For the islands of Kauai, Molokai, Lanai, Maui, and Hawaii, the maximum pre-tax wholesale price of regular unleaded gasoline shall consist of the maximum pre-tax wholesale price of regular unleaded gasoline for Oahu, plus the neighbor island wholesale adjustment factor.~~

~~(c) The baseline price for regular unleaded gasoline for Oahu referred to in subsection (b) shall be determined on a weekly basis, and shall be equal to the average of:~~

~~(1) The spot pipeline daily price for regular unleaded gasoline for Los Angeles;~~

~~(2) The spot pipeline daily price for regular unleaded gasoline for San Francisco; and~~

~~(3) The spot daily price for the Pacific Northwest, as reported and published by the Oil Price Information Service for the five business days of the preceding week.~~

~~(d) The location adjustment factor referred to in subsection (b) shall be \$.04 per gallon for the first year after~~

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~~the effective date of this section, and shall thereafter be subject to annual adjustment pursuant to section 486H D(a).~~

~~(c) The marketing margin factor referred to in subsection (b) shall be \$.18 per gallon for the first year after the effective date of this section, and shall thereafter be subject to annual adjustment pursuant to section 486H D(a).~~

~~(f) The neighbor island wholesale adjustment factor shall be the sum of the neighbor island location adjustment factor, plus the neighbor island marketing factor.~~

~~(g) The neighbor island location adjustment factor shall be \$.04 per gallon for the first year after the effective date of this section, and shall thereafter be subject to annual adjustment pursuant to section 486H D(a).~~

~~(h) The neighbor island marketing factor shall be \$.04 per gallon for the first year after the effective date of this section, and shall thereafter be subject to annual adjustment pursuant to section 486H D(a).~~

~~(i) Any manufacturer, wholesaler, or jobber who knowingly violates any requirement imposed or rule adopted under this section shall be subject to a civil penalty for each such violation, which penalty shall be three times the overcharge, or \$250,000, whichever is greater, and shall be liable for the~~

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~~costs of the action, and reasonable attorney's fees as determined by the court. Within two years from the date the commission obtains actual knowledge of the violation, the commission may institute a civil action in a court of competent jurisdiction to collect the civil penalty, the costs, and attorney's fees. In the case of ongoing violation, the two year period shall start from the date of the last violation. The commission may refer any such action to the attorney general as it deems appropriate. As used in this subsection, "overcharge" means the number of gallons of gasoline sold, times the wholesale price at which the manufacturer or jobber sold regular unleaded gasoline to a dealer retail station, less taxes assessed, less the maximum pre tax wholesale price established pursuant to subsection (b).~~

~~(j) The commission shall have the power to determine the extent to which a manufacturer, wholesaler, or jobber is complying with any requirement imposed or rule adopted under this section, including the power to compel a manufacturer, wholesale, or jobber to submit documents, data and information necessary and appropriate for the commission to determine such compliance. The commission may use data collected by the department of business, economic development, and tourism~~

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1 ~~pursuant to chapter 486J, as well as obtain the assistance of~~
2 ~~that department in determining such compliance.~~

3 ~~(k) The commission shall adopt rules pursuant to chapter~~
4 ~~91 as may be necessary to implement this section.~~

5 ~~**§486H-B Maximum pre-tax retail price for gasoline sold on**~~
6 ~~**a self-serve basis; civil actions.**~~ (a) ~~Notwithstanding any law~~
7 ~~to the contrary, no retail station may sell regular unleaded~~
8 ~~gasoline at retail, on a self serve basis, at a price above the~~
9 ~~maximum pre-tax retail prices established pursuant to subsection~~
10 ~~(b). The commission shall publish the maximum pre-tax retail~~
11 ~~prices by means that shall include the internet website for the~~
12 ~~State of Hawaii. The commission may also publish the retail~~
13 ~~prices inclusive of all taxes.~~

14 ~~(b) On a weekly basis, the commission shall determine the~~
15 ~~maximum pre-tax retail price of gasoline. The maximum pre-tax~~
16 ~~retail price for regular unleaded gasoline shall consist of the~~
17 ~~maximum pre-tax wholesale price for regular unleaded gasoline~~
18 ~~established pursuant to section 486H-A(b), plus a retail~~
19 ~~marketing margin factor.~~

20 ~~(c) The retail marketing margin factor shall be \$.16 per~~
21 ~~gallon for the first year, and shall thereafter be subject to~~
22 ~~adjustment pursuant to section 486H-D(b).~~

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~~(d) Any retail station that knowingly violates any requirement imposed or rule adopted under this section shall be subject to a civil penalty equal to three times the amount of the overcharge or \$25,000, whichever is greater, and shall be liable for the costs of the action, and reasonable attorney's fees as determined by the court. Within two years from the date the commission obtains actual knowledge of the violation, the commission may institute a civil action in a court of competent jurisdiction to collect the civil penalty, the costs, and the attorney's fees. In the case of ongoing violation, the two year period shall start from the date of the last violation. The commission may refer any such action to the attorney general as it deems appropriate. As used in this subsection, "overcharge" means the number of gallons of gasoline sold, times the retail price at which the retail station sold regular unleaded gasoline, less taxes assessed, less the maximum pre-tax retail price established pursuant to subsection (b).~~

~~(e) The commission shall have the power to determine the extent to which a retail station is complying with any requirement imposed or rule adopted under this section, including the power to compel a retail station to submit documents, data, and information necessary and appropriate for~~

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~~the commission to determine such compliance. The commission may use data collected by the department of business, economic development, and tourism pursuant to chapter 486J, as well as obtain the assistance of such department in determining such compliance.~~

~~(f) The commission shall adopt rules pursuant to chapter 91 as may be necessary to implement this section.~~

~~**§486H-C Governor's emergency powers.** (a) Notwithstanding any law to the contrary, the governor may suspend in whole or in part, section 486H A, section 486H B, or any rule adopted pursuant to those sections whenever the governor issues a written determination that strict compliance with any section or a rule will cause a major adverse impact on the economy, public order, or the health, welfare, or safety of the people of Hawaii. The governor shall publish this determination in accordance with section 1-28.5. The suspension shall take effect upon issuance of the written determination by the governor.~~

~~(b) Except as provided in subsection (c), the suspension under subsection (a) shall remain in effect until the earlier of:~~

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~~(1) The adjournment of the next regular or special session of the legislature; or~~

~~(2) The effective date of any legislative enactment intended to address the major adverse impact; provided that if the legislature has enacted legislation to address the major adverse impact, and the governor vetoes the legislation, the suspension shall terminate on the date of that veto, and the pre-tax maximum wholesale price or the pre-tax maximum retail price in effect immediately prior to the issuance of the written determination by the governor shall take effect on the day after the date of the veto; and provided further that if no action is taken by the legislature during the regular or special session to address the major adverse impact, then the pre-tax maximum wholesale price or the pre-tax maximum retail price in effect immediately prior to the issuance of the written determination by the governor shall take effect on the day after adjournment sine die of the regular or special session.~~

~~(c) If the written determination is issued while the legislature is in session, the suspension under subsection (a) shall remain in effect until the earlier of:~~

~~(1) The adjournment of that session of the legislature; or~~

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~~(2) The effective date of any legislative enactment intended to address the major adverse impact; provided that if the legislature has enacted legislation to address the major adverse impact, and the governor vetoes the legislation, the suspension shall terminate on the date of that veto, and the pre-tax maximum wholesale price or the pre-tax maximum retail price in effect immediately prior to the issuance of the written determination by the governor shall take effect on the day after the date of the veto; and provided further that if no action is taken by the legislature during the regular or special session to address the major adverse impact, then the pre-tax maximum wholesale price or the pre-tax maximum retail price in effect immediately prior to the issuance of the written determination by the governor shall take effect on the day after adjournment sine die of the regular or special session.~~

~~**§486H-D Adjustments.** (a) A manufacturer, wholesaler, or jobber may petition the commission to adjust the maximum pre-tax wholesale price of regular unleaded gasoline in the event of a change in the value of the baseline price for regular unleaded gasoline, the location adjustment factor, the marketing margin factor, or the neighbor island wholesale adjustment factor. The petitioner shall bear the burden of proof to establish by clear~~

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~~and convincing evidence the need for and the amount of any adjustment. The adjustments shall be determined as follows:~~

~~(1) The value of the baseline price shall be equal to the average of:~~

~~(A) The spot pipeline daily price for regular unleaded gasoline for Los Angeles;~~

~~(B) The spot pipeline daily price for regular unleaded gasoline for San Francisco; and~~

~~(C) The spot daily price for the Pacific Northwest, as reported and published by the Oil Price Information Service for the five business days of the preceding week;~~

~~(2) The value of the location adjustment factor in effect at the time the petition is filed shall be adjusted to equal the average of the actual acquisition cost to non-refiner marketers to obtain gasoline from refiners or importers for sale on the island of Oahu over the prior twelve-month period, which cost shall be taken from arm's length transactions between non-refiner marketers, and refiners or importers, such as exchange agreements, sales agreements, or other similar agreements; provided that the location adjustment~~

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~~factor shall not exceed the reasonable cost of
importing gasoline to the island of Oahu. As used in
this paragraph, "actual acquisition cost" means the
amount over the base price of regular unleaded
gasoline that a non-refiner marketer pays to a third
party for delivery of such gasoline into a terminal
located on the island of Oahu;~~

~~(3) The value of the marketing margin factor in effect at
the time the petition is filed shall be adjusted by
adding to such value the difference between:~~

~~(A) The average of the difference over the prior
twelve month period between:~~

~~(i) The dealer tank wagon price for sales for
resale; and~~

~~(ii) The bulk price for sales for resale, for PAD
District V,~~

~~as reported and published by the Energy
Information Administration or its successor in
Table 31 -- "Motor Gasoline Prices by Grade, Sales
Type, PAD District, and State" or other source
containing the same information; less~~

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~~(B) The average of the difference over the period
from 1994 until the most current year between:
(i) The dealer tank wagon price for sales for
resale; and
(ii) The bulk price for sales for resale, for PAD
District V,
as reported and published by the Energy
Information Administration or its successor in
Table 31 - "Motor Gasoline Prices by Grade, Sales
Type, PAD District, and State" or other source
containing the same information;~~

~~(4) The value of the neighbor island location adjustment
factor in effect at the time the petition is filed
shall be adjusted to equal the actual acquisition cost
to non-refiner marketers to obtain gasoline from a
refiner or importer for sale on the island of Kauai,
Molokai, Lanai, Maui, or Hawaii, over the prior
twelve-month period, which cost shall be taken from
arm's length transactions between non-refiner
marketers, and refiners or importers, such as exchange
agreements, sales agreements, or other similar
agreements; provided that the neighbor island location~~

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1 ~~adjustment factor shall not exceed the reasonable cost~~
2 ~~of importing gasoline to the island of Kauai, Molokai,~~
3 ~~Lanai, Maui, or Hawaii, from any port on the island of~~
4 ~~Oahu. As used in this subsection, "actual acquisition~~
5 ~~cost" means the amount over the base price of regular~~
6 ~~unleaded gasoline that a non-refiner marketer pay to a~~
7 ~~third party for delivery of such gasoline into a~~
8 ~~terminal located on Kauai, Molokai, Lanai, Maui, or~~
9 ~~Hawaii; and~~

10 ~~(5) The value of the neighbor island marketing factor in~~
11 ~~effect at the time the petition is filed shall be~~
12 ~~adjusted if there are material changes in the cost~~
13 ~~factors associated with marketing gasoline on the~~
14 ~~island of Kauai, Molokai, Lanai, Maui, or Hawaii, such~~
15 ~~as terminaling, storage, or distribution costs.~~

16 ~~(b) A retail station may petition the commission to adjust~~
17 ~~the maximum pre-tax retail price of gasoline in the event of a~~
18 ~~change in the maximum pre-tax wholesale price for regular~~
19 ~~unleaded gasoline, or the value of the retail marketing margin~~
20 ~~factor. The petitioner shall bear the burden of proof to~~
21 ~~establish by clear and convincing evidence the need for and the~~

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~~amount of any adjustment. The adjustment shall be determined as follows:~~

~~(1) The value of the retail marketing margin factor for regular unleaded gasoline established in section 486H-B(c) shall be adjusted upward only if such value is less than the average of the difference over the prior twelve month period between:~~

~~(A) The "through retail outlets" price for sales to end users for regular unleaded gasoline; and~~

~~(B) The dealer tank wagon price, for sales for resale for regular unleaded gasoline, for PAD District V,~~

~~as reported and published by the Energy Information Administration or its successor in Table 31 — "Motor Gasoline Prices by Grade, Sales Type, PAD District, and State" or other source containing the same information.~~

~~(c) If the commission adjusts the maximum pre-tax wholesale price or the maximum pre-tax retail price of regular unleaded gasoline, the commission shall publish its findings and the adjusted prices by means that shall include the internet website for the State of Hawaii.~~

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~~(d) In its discretion and without a petition having been filed, the commission may adjust the maximum pre tax wholesale price or the maximum pre tax retail price of regular unleaded gasoline if an adjustment is necessary as a result of a change in the value of the baseline price for regular unleaded gasoline, the location adjustment factor, the marketing margin factor, the neighbor island wholesale adjustment factor, or the retail marketing margin factor.~~

~~(e) Nothing in section 486H-A or 486H-B shall be construed to prohibit the filing of a petition during the first year after the effective date of this section."~~

~~2. By adding twelve new definitions to section 486H-1, Hawaii Revised Statutes, to be appropriately inserted and to read as follows:~~

~~"Commission" means the public utilities commission.~~

~~"Company retail station" means a retail service station owned and operated by a manufacturer or jobber and where retail prices are set by that manufacturer or jobber.~~

~~"Dealer retail station" means a retail service station owned by a manufacturer or jobber and operated by a qualified gasoline dealer other than a manufacturer or a jobber under a franchise.~~

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1 ~~"Independent retail station" means a retail service station~~
2 ~~not owned by a manufacturer or jobber and operated by a~~
3 ~~qualified gasoline dealer.~~

4 ~~"Non-refiner marketer" means any person who acquires~~
5 ~~gasoline for sale in the State of Hawaii, and who is not a~~
6 ~~refiner located and operating in the State of Hawaii, nor an~~
7 ~~importer owned by or affiliated with, directly or indirectly, by~~
8 ~~a refiner located and operating in the State of Hawaii.~~

9 ~~"Operate" means to engage in the business of selling motor~~
10 ~~vehicle fuel at a retail service station through any employee,~~
11 ~~commissioned agent, subsidiary company, or person managing a~~
12 ~~retail service station under a contract and on a fee arrangement~~
13 ~~with the manufacturer or jobber.~~

14 ~~"Other areas" means the second congressional district of~~
15 ~~the State.~~

16 ~~"Pre tax" when used in reference to a price means such~~
17 ~~price net of the fuel related or other taxes assessed when the~~
18 ~~gasoline is sold.~~

19 ~~"Retail" means a sale of gasoline made to the general~~
20 ~~public at prices that are displayed on the dispensing equipment.~~

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"Retail station" means and includes a company retail station, a dealer retail station, and an independent retail station.

"Self-serve basis" means that the retail station allows customers to dispense gasoline into vehicles.

"Urban" means the first congressional district of the State."

~~3. By amending section 486H-10.4, Hawaii Revised Statutes, to read as follows:~~

~~"**[§486H-10.4] Restrictions on manufacturers or jobbers in operating service stations; lease rent controls; definitions.**~~

~~(a) Beginning August 1, 1997, no manufacturer or jobber shall convert an existing dealer [operated] retail [service] station to a company [operated] retail [service] station; provided that nothing in this section shall limit a manufacturer or jobber from:~~

~~(1) Continuing to operate any company operated retail service stations legally in existence on July 31, 1997;~~

~~(2) Constructing and operating any new retail service stations as company [operated] retail [service]~~

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1 ~~stations constructed after August 1, 1997, subject to~~
2 ~~subsection (b); or~~

3 ~~(3) Operating a former dealer [operated] retail [service]~~
4 ~~station for up to twenty-four months until a~~
5 ~~replacement dealer can be found if the former dealer~~
6 ~~vacates the service station, cancels the franchise, or~~
7 ~~is properly terminated or not renewed.~~

8 ~~(b) No new company [operated] retail [service] station~~
9 ~~shall be located within one-eighth mile of a dealer [operated]~~
10 ~~retail [service] station in an urban area, and within one-~~
11 ~~quarter mile in other areas. [For purposes of this subsection,~~
12 ~~"urban" means the first congressional district of the State, and~~
13 ~~"other areas" means the second congressional district of the~~
14 ~~State.]~~

15 ~~(c) All leases as part of a franchise as defined in~~
16 ~~section 486H 1, existing on August 1, 1997, or entered into~~
17 ~~thereafter, shall be construed in conformity with the following:~~

18 ~~(1) Such renewal shall not be scheduled more frequently~~
19 ~~than once every three years; and~~

20 ~~(2) Upon renewal, the lease rent payable shall not exceed~~
21 ~~fifteen per cent of the gross sales, except for~~
22 ~~gasoline, which shall not exceed fifteen per cent of~~

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1 ~~the gross profit of product, excluding all related~~
2 ~~taxes by the dealer operated retail service station as~~
3 ~~defined in section 486H 1 and 486H 10.4 plus, in the~~
4 ~~case of a retail service station at a location where~~
5 ~~the manufacturer or jobber is the lessee and not the~~
6 ~~owner of the ground lease, a percentage increase equal~~
7 ~~to any increase which the manufacturer or jobber is~~
8 ~~required to pay the lessor under the ground lease for~~
9 ~~the service station. For the purposes of this~~
10 ~~subsection, "gross amount" means all monetary earnings~~
11 ~~of the dealer from a dealer operated retail service~~
12 ~~station after all applicable taxes, excluding income~~
13 ~~taxes, are paid.~~

14 ~~The provisions of this subsection shall not apply to any~~
15 ~~existing contracts that may be in conflict with its provisions.~~

16 ~~(d) Nothing in this section shall prohibit a dealer from~~
17 ~~selling a retail service station in any manner.~~

18 ~~[(e) For the purposes of this section:~~

19 ~~"Company operated retail service station" means a retail~~
20 ~~service station owned and operated by a manufacturer or jobber~~
21 ~~and where retail prices are set by that manufacturer or jobber.~~

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~~"Dealer operated retail service station" means a retail service station owned by a manufacturer or jobber and operated by a qualified gasoline dealer under a franchise.~~

~~"Operate" means to engage in the business of selling motor vehicle fuel at a retail service station through any employee, commissioned agent, subsidiary company, or person managing a retail service station under a contract and on a fee arrangement with the manufacturer or jobber.~~

~~"Retail" means a sale of gasoline made to the general public at prices that are displayed on the dispensing equipment.}]"~~

SECTION 3. Section 486H-10.4, Hawaii Revised Statutes, is repealed.

~~["~~\$486H-10.4~~ Restrictions on manufacturers or jobbers in operating service stations; lease rent controls; definitions.~~

~~(a) Beginning August 1, 1997, no manufacturer or jobber shall convert an existing dealer operated retail service station to a company operated retail service station; provided that nothing in this section shall limit a manufacturer or jobber from:~~

~~(1) Continuing to operate any company operated retail service stations legally in existence on July 31, 1997;~~

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~~(2) Constructing and operating any new retail service stations as company operated retail service stations constructed after August 1, 1997, subject to subsection (b); or~~

~~(3) Operating a former dealer operated retail service station for up to twenty four months until a replacement dealer can be found if the former dealer vacates the service station, cancels the franchise, or is properly terminated or not renewed.~~

~~(b) No new company operated retail service station shall be located within one eighth mile of a dealer operated retail service station in an urban area, and within one quarter mile in other areas. For purposes of this subsection, "urban" means the first congressional district of the State, and "other areas" means the second congressional district of the State.~~

~~(c) All leases as part of a franchise as defined in section 486H 1, existing on August 1, 1997, or entered into thereafter, shall be construed in conformity with the following:~~

~~(1) Such renewal shall not be scheduled more frequently than once every three years; and~~

~~(2) Upon renewal, the lease rent payable shall not exceed fifteen per cent of the gross sales, except for~~

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1 ~~gasoline, which shall not exceed fifteen per cent of~~
2 ~~the gross profit of product, excluding all related~~
3 ~~taxes by the dealer operated retail service station as~~
4 ~~defined in section 486H-1 and 486H-10.4 plus, in the~~
5 ~~case of a retail service station at a location where~~
6 ~~the manufacturer or jobber is the lessee and not the~~
7 ~~owner of the ground lease, a percentage increase equal~~
8 ~~to any increase which the manufacturer or jobber is~~
9 ~~required to pay the lessor under the ground lease for~~
10 ~~the service station. For the purposes of this~~
11 ~~subsection, "gross amount" means all monetary earnings~~
12 ~~of the dealer from a dealer operated retail service~~
13 ~~station after all applicable taxes, excluding income~~
14 ~~taxes, are paid.~~

15 ~~The provisions of this subsection shall not apply to any~~
16 ~~existing contracts that may be in conflict with its provisions.~~

17 ~~(d) Nothing in this section shall prohibit a dealer from~~
18 ~~selling a retail service station in any manner.~~

19 ~~(e) For the purposes of this section:~~

20 ~~"Company operated retail service station" means a retail~~
21 ~~service station owned and operated by a manufacturer or jobber~~
22 ~~and where retail prices are set by that manufacturer or jobber.~~

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~~"Dealer operated retail service station" means a retail service station owned by a manufacturer or jobber and operated by a qualified gasoline dealer under a franchise.~~

~~"Operate" means to engage in the business of selling motor vehicle fuel at a retail service station through any employee, commissioned agent, subsidiary company, or person managing a retail service station under a contract and on a fee arrangement with the manufacturer or jobber.~~

~~"Retail" means a sale of gasoline made to the general public at prices that are displayed on the dispensing equipment."]~~

SECTION 4. Chapter 486J, Hawaii Revised Statutes, is amended as follows:

1. By amending section 486J-1, Hawaii Revised Statutes, to read as follows:

"§486J-1 Definitions. As used in this chapter:

"Aviation fuel" means and includes all liquid substances of whatever chemical composition usable for the propulsion of airplanes.

"Classes of retail trade" means the separate subdivisions, or "classes", of outlets or methods of retail sales of liquid

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fuels, typically but not limited to gasoline and diesel for motor vehicles, and includes any:

(1) Company-operated station that is a retail service station owned and operated by a refiner or wholesale distributor and where retail prices are set by that refiner or wholesale distributor;

(2) Lessee dealer operated station that is a retail service station owned by a refiner or wholesale distributor and operated by a qualified gasoline dealer other than a refiner or wholesale distributor under a franchise; or

(3) Owner operated station that is a retail service station not owned by a refiner or wholesale distributor and operated by a qualified gasoline dealer.

"Competitively priced" means fuel-grade ethanol for which the wholesale price, minus the value of all applicable federal, state, and county tax credits and exemptions, is not more than the average posted rack price of unleaded gasoline of comparable grade published in the State.

"Corporate overhead expenses" means the expenses or costs allocated by the refiners that reflect their Hawaii business

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units' share of corporate staff costs such as legal, finance,
accounting, information technology, and the like.

"Department" means the department of business, economic
development, and tourism.

"Director" means the director of business, economic
development, and tourism.

"Distributor" means [~~and includes~~]:

(1) Every person who refines, manufactures, produces, or
compounds fuel in the State, and sells it at wholesale
or at retail, or who utilizes it directly in the
manufacture of products or for the generation of
power;

(2) Every person who imports or causes to be imported into
the State, or exports or causes to be exported from
the State, any fuel; [~~and~~]

(3) Every person who acquires fuel through exchanges with
another distributor[~~-~~]; or

(4) Every person who purchases fuel for resale at
wholesale or retail from any person described in
paragraph (1), (2), or (3).

"Energy" means work or heat that is, or may be, produced
from any fuel or source whatsoever.

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1 "Fuel" means [~~and includes~~] fuels whether liquid, solid, or
2 gaseous, commercially usable for energy needs, power generation,
3 and fuels manufacture, that may be manufactured, grown,
4 produced, or imported into the State or that may be exported
5 therefrom[+], including petroleum and petroleum products and
6 gases, coal, coal tar, vegetable ferments, and all fuel
7 alcohols.

8 "Liquid fuel" means fuels in liquid form, commercially
9 usable for energy needs, power generation, and fuels
10 manufacture, that may be manufactured, produced, or imported
11 into the State or that may be exported therefrom, including
12 petroleum and petroleum products and all fuel alcohols.

13 "Major marketer" means any person who sells natural gas,
14 propane, synthetic natural gas or oil in amounts determined by
15 the department as having a major effect on energy supplies.

16 "Major oil producer" means any person who produces oil in
17 amounts determined by the department as having a major effect on
18 energy supplies.

19 "Major oil storer" means any person who stores oil or other
20 petroleum products in amounts determined by the department as
21 having a major effect on energy supplies.

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1 "Major oil transporter" means any person who transports oil
2 or other petroleum products in amounts determined by the
3 department as having a major effect on energy supplies.

4 "Month" or "calendar month" means each full month of the
5 calendar year.

6 "Person"[7] means any person, firm, association,
7 organization, partnership, business trust, corporation, or
8 company. "Person" also includes any city, county, public
9 district or agency, the State or any department or agency
10 thereof, and the United States to the extent authorized by
11 federal law.

12 ~~["Petroleum commissioner" or "commissioner" means the~~
13 ~~administrator of the energy, resources, and technology division~~
14 ~~of the department of business, economic development, and~~
15 ~~tourism.]~~

16 "Refiner" means any person who owns, operates, or controls
17 the operations of one or more refineries in Hawaii.

18 "Refinery" means any industrial plant, regardless of
19 capacity, processing crude oil feedstock and manufacturing oil
20 products.

21 "Wholesale liquid fuel prices" means the prices at which
22 liquid fuel is sold at wholesale for resale at wholesale or

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1 retail, typically but not limited to gasoline and diesel for
2 motor vehicles, and includes:

3 (1) "Refiner wholesale price" which means the wholesale
4 price at which liquid fuel is sold by a refiner to any
5 distributor, not a refiner, for resale at any
6 subsequent wholesale, or retail transaction;

7 (2) "Non-refiner wholesale price" which means the
8 wholesale price at which liquid fuel is sold by any
9 distributor, not a refiner, to any other distributor,
10 not a refiner, for resale at any subsequent wholesale,
11 or retail transaction; and

12 (3) "Dealer tank wagon price" means the wholesale price at
13 which liquid fuel is sold to any retail outlet by any
14 distributor priced on a delivered basis to a retail
15 outlet."

16 2. By amending section 486J-2, Hawaii Revised Statutes, to
17 read as follows:

18 "**§486J-2 Distributors to register.** Every distributor, and
19 any person before becoming a distributor, shall register as such
20 with the [~~commissioner~~] director on forms to be prescribed,
21 prepared, and furnished by the [~~commissioner.~~] director."

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1 3. By amending section 486J-3, Hawaii Revised Statutes, to
2 read as follows:

3 "**§486J-3 Statements.** (a) Each distributor [~~shall~~], at
4 such reporting dates as the [~~commissioner~~] director may
5 establish, shall file with the [~~commissioner~~] director, on
6 forms prescribed, prepared, and furnished by the [~~commissioner~~],
7 director, a certified statement showing, separately for each
8 county and for the islands of Lanai and Molokai within which and
9 whereon fuel is sold or used during the last preceding reporting
10 period, the following:

11 (1) The total number of gallons or units of fuel refined,
12 manufactured, or compounded by the distributor within
13 the State and sold or used by the distributor, and if
14 for ultimate use in another county or on another
15 island, the name of that county or island;

16 (2) The total number of gallons or units of fuel imported
17 or exported by the distributor or sold or used by the
18 distributor, and if for ultimate use in another county
19 or on another island, the name of that county or
20 island;

21 (3) The total number of gallons or units of fuel sold as
22 liquid fuel, aviation fuel, diesel fuel, and other

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1 types of fuel as required by the ~~[commissioner;]~~
2 director;

3 (4) The total number of gallons or units of fuel and the
4 types thereof sold to: federal, state, and county
5 agencies, ships stores, or base exchanges, commercial
6 agricultural accounts, commercial nonagricultural
7 accounts, retail dealers, and other customers as
8 required by the ~~[commissioner;]~~ director;

9 (5) Monthly weighted average acquisition cost per barrel,
10 and volumes of foreign or domestic crude oil or other
11 liquid fuels, finished or unfinished, imported to
12 Hawaii;

13 ~~[(+5)]~~ (6) ~~[Monthly Hawaii]~~ Weekly weighted average
14 wholesale prices, and sales volumes of finished
15 ~~[leaded regular,]~~ unleaded regular, and premium motor
16 gasoline, and of each other grade of gasoline sold, by
17 island, [through] to [company-operated] retail
18 distributor outlets, by class of retail trade, [to
19 ~~other end-users,]~~ and to all other wholesale
20 ~~[customers]~~ distributors[+]. Weighted average
21 wholesale prices and sales volumes shall be reported
22 by type of wholesale liquid fuel price;

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1
2 (7) Weekly weighted average retail prices, and sales
3 volumes of finished unleaded regular, and premium
4 motor gasoline, and of each other grade of gasoline
5 sold, by island, by retail distributor outlets of all
6 classes of retail trade, and by any distributor to
7 other end-users. The department may purchase retail
8 price data from data service companies, which the
9 department may use to substitute some or all data to
10 meet the reporting requirement for retail price data
11 under this section;

12 ~~[(+6)]~~ (8) ~~[Monthly]~~ Weekly ~~[Hawaii]~~ weighted average
13 wholesale prices, and sales volumes ~~[for residential~~
14 ~~sales, commercial and institutional sales, industrial~~
15 ~~sales, sales through company-operated retail outlets,~~
16 ~~sales to other end users, and wholesale sales]~~ of No.
17 ~~2 diesel fuel and No. 2 fuel oil;]~~ of No. 2 diesel
18 fuel and No. 2 fuel oil, by island, to retail
19 distributor outlets, by class of retail trade, and to
20 all other wholesale distributors. Weighted average
21 wholesale prices and sales volumes shall be reported
22 by type of wholesale liquid fuel price~~[and]~~;

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(9) Weekly weighted average retail prices, and sales volumes of No. 2 diesel fuel and No. 2 fuel oil sold, by island, by retail distributor outlets of all classes of retail trade, and by any distributor to other end-users. The department may purchase retail price data from data service companies, which the department may use to substitute some or all data to meet the reporting requirement for retail price data under this section; and

~~[(7)]~~ (10) Monthly [Hawaii] weighted average prices, and sales volumes for retail sales and wholesale sales, by island, of No. 1 distillate, kerosene, finished aviation gasoline, kerosene-type jet fuel, No. 4 fuel oil, residual fuel oil, and consumer grade propane.

~~[The commissioner shall prescribe by rule when the first report shall be submitted.]~~

~~[(b) In addition to the above reporting, each distributor shall file with the director, Federal Form FEO-1000 or an equivalent state form to be prescribed, prepared, and furnished by the director, showing the expected supply of fuel products for the coming month, and their intended distribution as categorized by Form FEO-1000 or the equivalent state form. The~~

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1 ~~state form shall be supplied in the event that the Federal~~
2 ~~Mandatory Petroleum Allocation Regulations should expire, be~~
3 ~~revoked, or be amended to delete or substantially change the~~
4 ~~reporting requirements provided therein.]~~

5 [~~(e)~~] (b) Each major marketer shall submit to the
6 [~~commissioner,~~] director, at a time and in a form as the
7 [~~commissioner~~] director shall prescribe, information including
8 petroleum and petroleum product receipts, exchanges,
9 inventories, and distributions. [~~The commissioner shall~~
10 ~~prescribe by rule when the first report shall be submitted.]~~

11 [~~(d)~~] (c) The [~~commissioner~~] director may [~~request~~]
12 require reports of additional information as and when [~~the~~
13 ~~commissioner~~] the director deems it necessary to perform [~~the~~
14 ~~commissioner's~~] the director's responsibilities under this
15 chapter."

16 4. By amending section 486J-4, Hawaii Revised Statutes, to
17 read as follows:

18 "**§486J-4 Informational reports.** (a) Each major oil
19 producer, refiner, marketer, oil transporter, and oil storer
20 shall submit to the [~~commissioner,~~] director, in such form as
21 the [~~commissioner~~] director shall prescribe, information [~~which~~
22 that includes the following:

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1 (1) Major oil transporters shall report on petroleum by
2 reporting the capacities of each major transportation
3 system, the amount transported by each system, and
4 inventories thereof. The provision of the information
5 shall not be construed to increase and decrease any
6 authority the ~~[commissioner]~~ director may otherwise
7 have;

8 (2) Major oil storers shall report on storage capacity,
9 inventories, receipts and distributions, and methods
10 of transportation of receipts and distributions;

11 (3) Refiners shall report on facility capacity and
12 utilization and method of transportation of refinery
13 receipts and distributions; and

14 (4) Major oil marketers shall report on facility capacity
15 and methods of transportation of receipts and
16 distributions.

17 ~~[The commissioner shall prescribe by rule when the first report~~
18 ~~shall be submitted.]~~

19 (b) The ~~[commissioner]~~ director may ~~[request]~~ require
20 reports of additional information as and when ~~[the~~
21 ~~commissioner]~~ the director deems it necessary to perform ~~[the~~

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1 ~~commissioner's]~~ the director's responsibilities under this
2 chapter."

3 5. By amending section 486J-5, Hawaii Revised Statutes, to
4 read as follows:

5 "**§486J-5 Analysis of information; ~~audits and~~**
6 **~~inspections;~~ summary reports.** (a) The ~~[petroleum~~
7 ~~commissioner,~~ director, with the ~~[commissioner's]~~ director's
8 own staff and other support staff with expertise and experience
9 in, or with, the petroleum industry, shall gather, analyze, and
10 interpret the information submitted to it pursuant to sections
11 486J-3 ~~[and]~~, 486J-4, and 486J-A and other information relating
12 to the supply and price of petroleum products, with particular
13 emphasis on motor vehicle fuels, including, but not limited to,
14 all of the following:

15 (1) The nature, cause, and extent of any petroleum or
16 petroleum products shortage or condition affecting
17 supply~~[+]~~ and price;

18 (2) The economic and environmental impacts of any
19 petroleum and petroleum product shortage or condition
20 affecting supply~~[+]~~ and price;

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- 1 (3) Petroleum or petroleum product demand and supply
2 forecasting methodologies utilized by the petroleum
3 industry in Hawaii;
- 4 (4) The prices, with particular emphasis on wholesale and
5 retail motor vehicle fuel prices, and any significant
6 changes in prices charged by the petroleum industry
7 for petroleum or petroleum products sold in Hawaii and
8 the reasons for such changes;
- 9 (5) The income, expenses, and profits, both before and
10 after taxes, of the industry as a whole and of major
11 firms within it, including a comparison with other
12 major industry groups and major firms within them as
13 to profits, return on equity and capital, and price-
14 earnings ratio;
- 15 (6) The emerging trends relating to supply, demand, price,
16 and conservation of petroleum and petroleum products;
17 and
- 18 (7) The nature and extent of efforts of the petroleum
19 industry to expand refinery capacity and to make
20 acquisitions of additional supplies of petroleum and
21 petroleum products[;—~~and~~

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1 ~~(8) The development of a petroleum and petroleum products~~
2 ~~information system in a manner which will enable the~~
3 ~~State to take action to meet and mitigate any~~
4 ~~petroleum or petroleum products shortage or condition~~
5 ~~affecting supply.~~

6 ~~(b) The commissioner shall conduct random or periodic~~
7 ~~audits and inspections of any supplier or suppliers of oil or~~
8 ~~petroleum products to determine whether they are unnecessarily~~
9 ~~withholding supplies from the market or are violating applicable~~
10 ~~policies, laws, or rules. The commissioner may solicit~~
11 ~~assistance of the department of taxation in any such audit. The~~
12 ~~commissioner shall cooperate with other state and federal~~
13 ~~agencies to ensure that any audit or inspection conducted by the~~
14 ~~commissioner is not duplicative of the data received by any of~~
15 ~~their audits or inspections which is available to the~~
16 ~~commissioner].~~

17 ~~[(e)]~~ (b) The ~~[commissioner]~~ director shall analyze the
18 impacts of state and federal policies, rules, and regulations
19 upon the supply and pricing of petroleum products.

20 ~~[(d)]~~ (c) The ~~[commissioner]~~ director shall publish
21 annually and submit to the governor and the legislature twenty
22 days prior to the first day of ~~[the current]~~ each legislative

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1 session a summary, including any analysis and interpretation of
2 the information submitted to it pursuant to this chapter, and
3 any other activities taken by the [~~commissioner,~~] director,
4 including civil penalties imposed and referrals of violations to
5 the attorney general under section 486J-9. Any person may
6 submit comments in writing regarding the accuracy or sufficiency
7 of the information submitted. At the option of the director,
8 this report may be combined with reporting required by section
9 196-4(11), in the director's role as state energy resources
10 coordinator."

11 6. By amending section 486J-6, Hawaii Revised Statutes, to
12 read as follows:

13 "**§486J-6 Confidential information.** (a) Confidential
14 commercial information presented to the [~~commissioner~~] director
15 pursuant to this chapter shall be held in confidence by the
16 [~~commissioner~~] director or aggregated to the extent necessary to
17 assure confidentiality as governed by chapter 92F, including its
18 penalty provisions.

19 [~~(b) No data or information submitted to the commissioner~~
20 ~~shall be deemed confidential if the person submitting the~~
21 ~~information or data has made it public.]~~

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1 [~~(e)~~] (b) Unless otherwise provided by law, with respect
2 to data provided pursuant to sections 486J-3 [~~and~~], 486J-4, and
3 486J-A, neither the [~~commissioner~~] director, nor any employee
4 of the department, may do any of the following:

5 (1) Use the information furnished under sections 486J-3

6 [~~and~~], 486J-4, and 486J-A for any purpose other than
7 the statistical purposes for which it is supplied;

8 (2) Make any publication whereby the data furnished by any
9 particular establishment or individual under sections
10 486J-3 [~~and~~], 486J-4, and 486J-A can be identified; or

11 (3) Permit anyone to examine the individual reports
12 provided under sections 486J-3 [~~and~~], 486J-4, and
13 486J-A other than the department of taxation, the
14 public utilities commission, the attorney general, and
15 the consumer advocate, and the authorized
16 representatives and employees of each."

17 7. By amending section 486J-7, Hawaii Revised Statutes, to
18 read as follows:

19 "**§486J-7 Confidential information obtained by another**
20 **state agency.** Any confidential information pertinent to the
21 responsibilities of the [~~commissioner~~] director specified in
22 this chapter that is obtained by another state agency, including

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1 the department of taxation, the public utilities commission, the
2 attorney general, and the consumer advocate, shall be available
3 to the attorney general, the attorney general's authorized
4 representatives, and the ~~[commissioner]~~ director and shall be
5 treated in a confidential manner."

6 8. By amending section 486J-8, Hawaii Revised Statutes, to
7 read as follows:

8 **"§486J-8 Sharing of information obtained by the**
9 **~~[commissioner.]~~ director.** The ~~[commissioner]~~ director shall
10 make all information obtained by the ~~[commissioner]~~ director
11 under this chapter, including confidential information,
12 available to the attorney general, the department of taxation,
13 the public utilities commission, the consumer advocate, and the
14 authorized representative of each, who shall safeguard the
15 confidentiality of all confidential information received."

16 9. By amending section 486J-9, Hawaii Revised Statutes, to
17 read as follows:

18 **"§486J-9 Failure to timely provide information; failure to**
19 **make and file statements; false statements; penalties; referral**
20 **to the attorney general.** (a) The ~~[petroleum commissioner]~~
21 director shall notify those persons who have failed to timely
22 provide the information specified in section 486J-3 ~~[or]~~, 486J-

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1 4, or 486J-A or requested by the [~~commissioner~~] director under
2 section 486J-3 [~~or~~], 486J-4[~~-~~] or 486J-A. If, within five
3 business days after being notified of the failure to provide the
4 specified or requested information, the person fails to supply
5 the specified or requested information, the person shall be
6 subject to a civil penalty of not less than \$50,000 per day nor
7 more than \$100,000 per day for each day the submission of
8 information is refused or delayed[, ~~unless the person has timely~~
9 ~~filed objections with the commissioner regarding the information~~
10 ~~and the commissioner has held a hearing and, following a ruling~~
11 ~~by the commissioner, the person has properly submitted the issue~~
12 ~~to a court of competent jurisdiction for review~~].

13 (b) Any person who willfully makes any false statement,
14 representation, or certification in any record, report, plan, or
15 other document filed with the [~~commissioner~~] director shall be
16 subject to a civil penalty not to exceed \$500,000, and shall be
17 deemed to have committed an unfair or deceptive act or practice
18 in the conduct of a trade or commerce and subject to the
19 penalties specified in chapter 480.

20 (c) The [~~commissioner~~] director shall refer any matter
21 under [~~this subsection~~] subsection (a) or (b) to the attorney

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1 general, who may exercise any appropriate legal or equitable
2 remedies that may be available to the State.

3 ~~[(e)]~~(d) For the purposes of this section, "person" means,
4 in addition to the definition contained in section 486J-1, any
5 responsible corporate officer."

6 10. By amending section 486J-10, Hawaii Revised Statutes,
7 to read as follows:

8 "**§486J-10 Ethanol content requirement.** (a) The
9 ~~[commissioner]~~ director shall adopt rules in accordance with
10 chapter 91 to require that gasoline sold in the State for use in
11 motor vehicles contain ten per cent ethanol by volume. The
12 amounts of gasoline sold in the State containing ten per cent
13 ethanol shall be in accordance with rules as the ~~[commissioner]~~
14 director may deem appropriate. The ~~[commissioner]~~ director may
15 authorize the sale of gasoline that does not meet these
16 requirements as provided in subsection (d).

17 (b) Gasoline blended with an ethanol-based product, such
18 as ethyl tertiary butyl ether, shall be considered to be in
19 conformance with this section if the quantity of ethanol used in
20 the manufacture of the ethanol-based product represents ten per
21 cent, by volume, of the finished motor fuel.

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1 (c) Ethanol used in the manufacture of ethanol-based
2 gasoline additives, such as ethyl tertiary butyl ether, may be
3 considered to contribute to the distributor's conformance with
4 this section; provided that the total quantity of ethanol used
5 by the distributor is an amount equal to or greater than the
6 amount of ethanol required under this section.

7 (d) The [~~commissioner~~] director may authorize the sale of
8 gasoline that does not meet the provisions of this section:

9 (1) To the extent that sufficient quantities of
10 competitively-priced ethanol are not available to meet
11 the minimum requirements of this section; or

12 (2) In the event of any other circumstances for which the
13 [~~commissioner~~] director determines compliance with
14 this section would cause undue hardship.

15 (e) Each distributor, at such reporting dates as the
16 [~~commissioner~~] director may establish, shall file with the
17 [~~commissioner,~~] director, on forms prescribed, prepared, and
18 furnished by the [~~commissioner,~~] director, a certified statement
19 showing:

20 (1) The price and amount of ethanol available;

21 (2) The amount of ethanol-blended fuel sold by the
22 distributor;

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(3) The amount of non-ethanol-blended gasoline sold by the distributor; and

(4) Any other information the ~~[commissioner]~~ director shall require for the purposes of compliance with this section.

(f) Provisions with respect to confidentiality of information shall be the same as provided in section ~~[486J-7.]~~ 486J-6.

(g) Any distributor or any other person violating the requirements of this section shall be subject to a fine of not less than \$2 per gallon of nonconforming fuel, up to a maximum of \$10,000 per infraction.

(h) The ~~[commissioner,]~~ director, in accordance with chapter 91, shall adopt rules for the administration and enforcement of this section."

11. By adding a new section to be appropriately inserted and to read as follows:

"§486J-A Informational cost reports. (a) Each refiner, at such reporting dates as the director may establish, shall file with the director, on forms prescribed, prepared, and furnished by the director, a certified statement of operating

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1 and overhead costs for the refiner's Hawaii operations, which
2 shall include but not be limited to the following:

3 (1) Crude oil costs;

4 (2) Other feedstock costs;

5 (3) Refinery operating expenses;

6 (4) Marketing operating expenses;

7 (5) Distribution expenses; and

8 (6) Corporate overhead expenses.

9 (b) In addition to the reporting required under subsection
10 (a), each distributor shall file with the director, any
11 Securities and Exchange Commission Forms 10-K, 10-Q, Annual
12 Reports, Quarterly Reports, and Earnings Supplements published
13 by the distributor.

14 (c) Each distributor, except a distributor who is so
15 defined solely by criteria in paragraph (4) of that definition
16 in section 486J-1, who sells liquid fuel only at retail and is
17 not a refiner, shall file with the director, at such reporting
18 dates as the director may establish, on forms prescribed,
19 prepared, and furnished by the director, a certified statement
20 of operating and overhead costs, which shall include the
21 following:

22 (1) Gasoline purchases;

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- 1 (2) Diesel purchases;
2 (3) Marketing expenses; and
3 (4) Distribution expenses."

4 12. By adding a new section to be appropriately designated
5 and to read as follows:

6 **"§486J-B Petroleum industry information reporting system.**

7 The department shall develop and maintain an automated petroleum
8 information reporting system that meets the requirements of
9 government, industry, and the public while promoting sound
10 policy making, and consumer information and protection. The
11 purpose of the petroleum industry information reporting system
12 is to conduct and facilitate the efficient reporting analysis of
13 information described in section 486J-5. The department shall
14 develop the petroleum industry information reporting system in a
15 manner that will result in greater market transparency and
16 provide useful information to those agencies that are authorized
17 to conduct oversight of the petroleum industry and ensure
18 compliance with all relevant laws."

19 13. By repealing section 486J-12, Hawaii Revised Statutes:

20 [~~"§486J-12 Rules. The commissioner shall adopt, amend, or~~
21 ~~repeal such rules as [the commissioner] may deem proper to fully~~
22 ~~effectuate this chapter."~~]

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1 SECTION 5. This Act reflects the functions required to
2 implement those recommendations contained in the Act 77, Session
3 Laws of Hawaii 2002, study by the department of business,
4 economic development, and tourism that require action by the
5 legislature. Section 1 of this Act lists the sixth such
6 recommendation as:

7 "(6) Revise existing petroleum industry data reporting
8 requirements to provide market transparency, and
9 provide adequate implementation funding."

10 Having addressed the recommendation to strengthen the
11 state's petroleum industry data reporting, monitoring, and
12 analytic functions in sections 2 and 4 of this Act, the purpose
13 of this section is to provide adequate implementation funding.
14 This funding will support establishment of a statewide system of
15 "watchdog" monitoring, analysis, and reporting of petroleum
16 industry prices, volumes, and profitability data for market
17 transparency and oversight by enforcement agencies.

18 The department of business, economic development, and
19 tourism's consultants who assisted in preparation of the study,
20 the National Conference of State Legislatures and Stillwater
21 Associates LLC, conducted resource assessments to estimate
22 funding requirements under various policy implementation

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1 scenarios. Those estimates were analyzed and adjusted by the
2 department of budget and finance.

3 Full implementation of Act 77, Session Laws of Hawaii 2002,
4 was projected to cost the State up to a total of approximately
5 \$1.2 million annually. It would require adding a total of
6 twelve full-time staff positions - five in the department of
7 business, economic development, and tourism, and seven in the
8 public utilities commission. The first year start up cost would
9 total approximately \$1.5 million, after adding the required one-
10 time estimated cost of \$300,000 to develop the petroleum
11 industry database and information system. These resources will
12 be required to implement, administer and enforce the Act 77
13 gasoline price caps.

14 Implementation of the DBEDT functions required by this Act
15 reflects the minimum, least-cost set of policy options,
16 developed for and recommended in the study with the department
17 of budget and finance's adjustments. This funding will support
18 establishment of a statewide system of "watchdog" monitoring,
19 analysis, and reporting of petroleum industry prices, volumes
20 and profitability data for market transparency and oversight by
21 enforcement agencies. Irrespective of gasoline price control
22 implementation, the resources necessary for DBEDT to implement

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1 these functions will total \$551,769, the first year, and
2 \$251,769 annually thereafter. Of the first year funding,
3 \$300,000 is a one-time estimated cost to develop the petroleum
4 industry database and information system in section 7 of this
5 Act.

6 Therefore, there is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$552,000, or so much
8 thereof as may be necessary for fiscal year 2004-2005, to carry
9 out the purposes of this Act, including the establishment and
10 operation of the market monitoring and analysis structure
11 required by section 4 of this Act. The sum appropriated shall
12 be expended by the department of business, economic development,
13 and tourism.

14 SECTION 6. In codifying the new sections added by section
15 4 of this Act, the revisor of statutes shall substitute
16 appropriate section numbers for the letters used in designating
17 the new sections in this Act.

18 SECTION 7. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 8. This Act shall take effect upon its approval;
21 provided that section 2 shall take effect on June 30, 2004, and
22 section 5 shall take effect on July 1, 2004.

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INTRODUCED BY: _____

Report Title:

Petroleum Market Competition, Pricing, and Oversight

Description:

Implementing the recommendations by the department of business, economic development, and tourism in its examination of Hawaii's petroleum market.